

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FIFTH THIRD BANK CHICAGO, a)
banking corporation,)
Plaintiff,)
v.)
KENNETH A. NELSON, a Florida)
resident, and the KENNETH A. NELSON)
REVOCABLE TRUST, a/k/a KENNETH)
A. NELSON TRUST DATED FEBRUARY)
18, 1981)
Defendants.)

Hon. Matthew F. Kennelly

Case No.: 08 cv 2715

NOTICE OF DISMISSAL WITHOUT PREJUDICE

Plaintiff, Fifth Third Bank Chicago, a banking corporation, (the “Plaintiff”) by and through Gregory J. Jordan, Peter Schmidt and Jean Soh and the law firm of Polsinelli Shalton Flanigan Suelthaus PC, its counsel, hereby dismisses the above-captioned action pursuant to Federal Rule of Civil Procedure 41 on its claims against the defendants, Kenneth A. Nelson (“Nelson”) and the Kenneth A. Nelson Revocable Trust, a/k/a Kenneth A. Nelson Trust dated February 18, 1981 (the “Trust”), and states as follows:

1. The Plaintiff's complaint against Nelson and the Trust was filed with the Clerk of this Court on May 9, 2008.
2. Summons was issued by the Court on Nelson and the Trust on May 9, 2008. Plaintiff's counsel has not yet filed with the Clerk of Court the appropriate return of service and/or waiver of service. As of the date of the filing of this Notice, the official case docket does not

reflect that an answer or a motion for summary judgment has been filed by Nelson and the Trust.

3. An action may be dismissed by the plaintiff without order of court by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment. FED.R.CIV.P. 41. This pleading constitutes such notice.

WHEREBY, the Plaintiff, Fifth Third Bank Chicago, a banking corporation, hereby dismisses the above-captioned action pursuant to Federal Rule of Civil Procedure Rule 41 without prejudice on its claims against the defendants, Kenneth A. Nelson and the Kenneth A. Nelson Revocable Trust, a/k/a Kenneth A. Nelson Trust dated February 18, 1981.

Respectfully submitted,
FIFTH THIRD BANK CHICAGO,
a banking corporation,

By /s/ Gregory J. Jordan
One of Its Attorneys

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